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**THIS DISPOSITION
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Paper No. 14
CEW

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Best Software, Inc.

Serial No. 75/457,359

Marsha G. Gentner and Leesa N. Weiss of Jacobson, Price,
Holman & Stern for applicant.

Sandy R. Switzer, Trademark Examining Attorney, Law Office
112 (Janice O'Lear, Managing Attorney).

Before Walters, Wendel and Holtzman, Administrative
Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

Best Software, Inc. has filed a trademark application
to register the mark BUDGET DIRECTOR for "computer software
for use in accounting, financial management and planning,
and budget forecast and analysis."¹ The application
includes a disclaimer of BUDGET apart from the mark as a
whole.

The Trademark Examining Attorney has issued a final
refusal of registration, under Section 2(e)(1) of the

¹ Serial No. 75/457,359, in International Class 9, filed March 26, 1998,
based on an allegation of a bona fide intention to use the mark in
commerce.

Trademark Act, 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive of its goods.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We reverse the refusal to register.

The Examining Attorney contends that the proposed mark is merely descriptive in connection with the identified software because it "describes the intended users of the applicant's software." She states that the term "budget director" is a "recognized position in the business management field," identifying "a person within an organization charged with accounting, financial management, and budget planning duties." In support of her position, the Examining Attorney submitted dictionary definitions of "budget" as "an itemized summary of estimated or intended expenditures for a given period along with proposals for financing them" and of "director" as "one who supervises, controls, or manages"; and excerpts of articles from the LEXIS/NEXIS database that demonstrate use of the term "budget director."

The test for determining whether a mark is merely descriptive is whether the involved term immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used.

In re Engineering Systems Corp., 2 USPQ2d 1075 (TTAB 1986); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). It is not necessary, in order to find a mark merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977).

It is clear from a review of the specimen of record, a brochure advertising applicant's software, that applicant's product is intended to integrate and streamline the process "of putting together a budget." According to the brochure, the BUDGET DIRECTOR software allows an organization's "budget administrator" to "always know the status of each part of the budget"; and the program "includes tools to set up your budget process, distribute and collect input, analyze your business projections, and perform what-if analyses."

The LEXIS/NEXIS excerpts clearly establish that "budget director" is a term that appears frequently in articles and that it is a title referring to a person who manages an organization's budget department or office. As applicant notes, the vast majority of the articles refer to government budget directors. However, even if it is mostly government organizations that have a position entitled "budget director," because applicant's identification of goods does not limit its class of purchasers to private organizations and, thus, encompasses government budget offices, applicant's argument in this regard is irrelevant.

Nonetheless, the Examining Attorney has not established that "budget directors" are either the only, or a significant portion of the intended class of purchasers for applicant's goods. The only evidence regarding the intended class of purchasers is the brochure submitted as a specimen. From this, we can conclude only that the intended purchasers encompass any business entity that prepares a budget.

The Examining Attorney has established that the term "budget" is merely descriptive, if not generic, in connection with the identified goods, and a disclaimer of that term is of record. However, we find the term "budget director" to be a double entendre because, while the term is commonly understood to identify a "person," when it is considered in connection with these goods, the term suggests

that this software can be useful in setting the direction of an organization's budget through, among other features, the integration of strategy with actual "number crunching."

This analysis requires too many steps for us to consider the mark to be merely descriptive.²

Decision: The refusal under Section 2(e)(1) of the Act is reversed.

² We note that we do not consider as persuasive applicant's arguments that none of the referenced LEXIS/NEXIS articles reference computer software or programs used by "budget directors," or that the third-party registrations of marks that include the term "director" for a variety of goods and services. The fact that the term may have broad applicability is not relevant to this case where we must consider the mark in connection with the identified goods.